



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/731,912

12/08/2000

Eric Allan Bier

1508-3220

1180

7590

04/28/2006

Gunnar G. Leinberg, Esq.  
NIXON PEABODY LLP  
Clinton Square  
P.O. Box 31051  
Rochester, NY 14603

EXAMINER

TRAN, QUOC A


ART UNIT

PAPER NUMBER

2176

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Application Number</b> 	<b>Application/Control No.</b> 09/731,912  Heather R. Herndon	<b>Applicant(s)/Patent under Reexamination</b> BIER, ERIC ALLAN <b>Art Unit</b> 2176
<b>Document Code - AP.PRE.DEC</b>		

## Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 4-12-06.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other: \_\_\_\_\_

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

- ☒ The panel has determined the status of the claim(s) is as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: 1-3, 5-13, 15-16, 18-21, 23-45.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:



(1) Heather R. Herndon.

(2) Joe Dixon.

HEATHER R. HERNDON  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 2100

(3) Quoc Tran.

(4) \_\_\_\_\_.